

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Richmond Division**

ePLUS INC.,)	
)	
Plaintiff,)	Civil Action No. 3:09-CV-620 (REP)
)	
v.)	
)	
LAWSON SOFTWARE, INC.,)	
)	
)	
)	
Defendant.)	

**PLAINTIFF ePLUS, INC.’S MOTION IN LIMINE NO. 7:
TO EXCLUDE EXPERT OPINIONS OF PHILIP GREEN THAT ARE UNRELIABLE,
UNSUPPORTED IN FACT, AND THAT HE IS UNQUALIFIED TO PRESENT**

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Pursuant to Federal Rules of Evidence 402 and 702, and *Daubert v. Merrell Dow Pharms.*, 509 U.S. 579 (1993), Plaintiff ePlus, Inc. (“ePlus”) respectfully moves that the Court preclude Defendant Lawson Software, Inc. (“Lawson”) from presenting certain testimony and evidence from its purported damages expert, Philip Green. In particular, ePlus seeks to preclude Mr. Green from offering at trial the following “expert” opinions:

- opinions about Lawson’s “technology acquisitions” agreements and Lawson’s software license and software resale agreements, neither of which are related to the patents-in-suit;
- opinions about alleged non-infringing alternatives to the accused systems that were supposedly available at the time of the hypothetical negotiation between the parties; and
- opinions comparing the patents-in-suit to older modes or devices that were purportedly used for providing similar functionality to that provided by the patented invention.

Mr. Green’s opinions concerning Lawson license and acquisition agreements unrelated to the patents-in-suit should be excluded under Rule 402 because, as the Federal Circuit has repeatedly emphasized, this information is not relevant in a patent infringement damages analysis. Mr. Green’s opinions concerning non-infringing alternatives and comparing the patented technology to old modes and devices should be excluded under Rule 702 because he is unqualified to testify in these areas and because his opinions are neither based on facts or data nor the product of reliable principles or methods. Accordingly, ePlus respectfully requests that the Court exclude from evidence testimony and evidence from Mr. Green related to these opinions. A proposed order is attached hereto.

Respectfully submitted,

June 18, 2010

/s/

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CERTIFICATE OF SERVICE

I hereby certify that on the 18th day of June, 2010, I will electronically file the foregoing

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with the Clerk of Court using the CM/ECF system which will then send a notification of such filing (NEF) via email to the following:

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